

EXHIBIT 4

LAW OFFICES OF SCOTT A. BURSOR

Scott A. Bursor (*pro hac vice*)
369 Lexington Avenue, 10th Floor
New York, NY 10017
Telephone: (212) 989-9113
Facsimile: (212) 989-9163

BRAMSON, PLUTZIK, MAHLER & BIRKHAEUSER, LLP

Alan R. Plutzik (State Bar No. 077785)
L. Timothy Fisher (State Bar No. 191626)
2125 Oak Grove Road, Suite 120
Walnut Creek, CA 94598
Telephone: (925) 945-0200
Facsimile: (925) 945-8792

Attorneys for Defendants Power
Ventures, Inc. and Steve Vachani

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

FACEBOOK, INC.,

Plaintiff,

-against-

POWER VENTURES, INC. d/b/a POWER.COM, a
California corporation; POWER VENTURES, INC.
a Cayman Island Corporation, STEVE VACHANI,
an individual; DOE 1, d/b/a POWER.COM, an
individual and/or business entity of unknown nature;
DOES 2 through 25, inclusive, individuals and/or
business entities of unknown nature,

Defendants.

Case No. 5:08-cv-05780 JF (RS)

**DEFENDANT POWER VENTURES,
INC.'S RESPONSES TO
FACEBOOK, INC.'S FIRST SET OF
REQUESTS FOR ADMISSIONS**

REQUEST FOR ADMISSION NO. 9:

Admit that in a letter dated December 1, 2008, FACEBOOK told YOU that Facebook's Terms of Use prohibited "[u]sing the Facebook service or site for commercial purposes, except under formal advertising programs offered by Facebook."

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Admitted.

REQUEST FOR ADMISSION NO. 10:

Admit that in a letter dated December 1, 2008, FACEBOOK told YOU that Facebook's Terms of Use prohibited "[i]ncorporating any Facebook site content or information in any other database or compilation."

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Admitted.

REQUEST FOR ADMISSION NO. 11:

Admit that after receiving FACEBOOK's December 1, 2008 letter, you continued to access the FACEBOOK WEBSITE through the services available at the POWER WEBSITE.

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Objection vague and ambiguous. Subject to and without waiving these objections, denied.

REQUEST FOR ADMISSION NO. 12:

Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU allowed OR provided POWER USERS with the means to access the FACEBOOK WEBSITE through the POWER WEBSITE.

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Admitted.

1 **REQUEST FOR ADMISSION NO. 13:**

2 Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU provided POWER
3 USERS with the means to access the FACEBOOK WEBSITE.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

5 Admitted.

6 **REQUEST FOR ADMISSION NO. 14:**

7 Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU solicited
8 FACEBOOK USER login information, including, but not limited to, user login names, e-mail
9 addresses OR passwords.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

11 Objection vague and ambiguous. Subject to and without waiving these objections, denied.

12 **REQUEST FOR ADMISSION NO. 15:**

13 Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU stored
14 FACEBOOK USER login information, including, but not limited to, user login names, e-mail
15 addresses OR passwords.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

17 Admitted.

18 **REQUEST FOR ADMISSION NO. 16:**

19 Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU used the
20 FACEBOOK WEBSITE for commercial purposes.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

22 Denied.

23 / / /

24 / / /

1 **REQUEST FOR ADMISSION NO. 17:**

2 Admit that YOU have never entered into a formal advertising agreement with
3 FACEBOOK.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

5 Objection vague and ambiguous. Subject to and without waiving these objections, denied.
6

7 **REQUEST FOR ADMISSION NO. 18:**

8 Admit that YOU developed OR created programming scripts OR language that would
9 provide POWER with an automated mechanism to extract data from the FACEBOOK WEBSITE.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

11 Admitted.
12

13 **REQUEST FOR ADMISSION NO. 19:**

14 Admit that YOU copied OR made use of at least some part, excerpt, OR portion of
15 FACEBOOK's source code to develop, test implement, use OR provide POWER's aggregating
16 services.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 19:**

18 Objection compound, vague and ambiguous. Subject to and without waiving these
19 objections, denied.

20 **REQUEST FOR ADMISSION NO. 20:**

21 Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU incorporated
22 FACEBOOK WEBSITE content, DATA, or information into the POWER WEBSITE OR that
23 services located thereon.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

25 Objection compound, vague and ambiguous. Subject to and without waiving these
26 objections, denied.
27

28 / / /

REQUEST FOR ADMISSION NO. 21:

Admit that in or about December 2008, YOU agreed to access the FACEBOOK WEBSITE OR cause others to access the FACEBOOK WEBSITE through means permitted by FACEBOOK.

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

Admitted.

REQUEST FOR ADMISSION NO. 22:

Admit that after receiving notice that YOUR use of or access to FACEBOOK was not permitted by FACEBOOK, YOU took, copied, OR made use of DATA from the FACEBOOK WEBSITE without FACEBOOK'S permission to do so.

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

Admitted.

REQUEST FOR ADMISSION NO. 23:

Admit that FACEBOOK implemented technical measures to block YOU from accessing the FACEBOOK WEBSITE through the POWER WEBSITE.

RESPONSE TO REQUEST FOR ADMISSION NO. 23:

Admitted.

REQUEST FOR ADMISSION NO. 24:

Admit that, in or about December 2008, FACEBOOK blocked YOUR IP address(es) from accessing the FACEBOOK WEBSITE.

RESPONSE TO REQUEST FOR ADMISSION NO. 24:

Objection compound, vague and ambiguous. Subject to and without waiving these objections, denied.

/ / /

/ / /

1 **REQUEST FOR ADMISSION NO. 36:**

2 Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU used or attempted
3 to another person's FACEBOOK WEBSITE account information without authorization from
4 FACEBOOK.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 36:**

6 Objection compound, vague and ambiguous. Subject to and without waiving these
7 objections, denied.

8 **REQUEST FOR ADMISSION NO. 37:**

9 Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU used automated
10 scripts or COMPUTER CODE to collect information from, or otherwise interact with, the
11 FACEBOOK WEBSITE.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 37:**

13 Admitted.

14 **REQUEST FOR ADMISSION NO. 38:**

15 Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU uploaded, posted,
16 OR made available promotional materials OR solicitations on the FACEBOOK WEBSITE.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 38:**

18 Objection compound, vague and ambiguous. Subject to and without waiving these
19 objections, denied.

20 **REQUEST FOR ADMISSION NO. 39:**

21 Admit that on December 26, 2008, Steve Vachani sent an e-mail to Facebook stating
22 YOUR "business decision" to continue accessing or using the FACEBOOK WEBSITE without
23 implementing the Facebook Connect platform.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 39:**

25 Objection vague and ambiguous. Subject to and without waiving these objections, Power
26 admits that Mr. Vachani sent an email to Facebook's counsel on December 26, 2008 stating:

27 Dear Joseph,

28 I am writing to follow up to our discussions regarding Power.com's
integration of Facebook connect, your requests for us to take down

REQUEST FOR ADMISSION NO. 50:

Admit that the “Launch Promotion” invitation described in Paragraphs 65 through 70 of Facebook’s First Amended Complaint against YOU (Dkt. No. 9) does not contain a valid e-mail address, by which recipients of the invitation could contact YOU.

RESPONSE TO REQUEST FOR ADMISSION NO. 50:

Admitted.

REQUEST FOR ADMISSION NO. 51:

Admit that between January 1, 2008 and present date, YOU stored, saved, or otherwise retained FACEBOOK user log-in information, such as user names and/or passwords.

RESPONSE TO REQUEST FOR ADMISSION NO. 51:

Admitted.

REQUEST FOR ADMISSION NO. 52:

Admit that in an e-mail dated December 12, 2008, 1:24 p.m., YOU wrote that YOU “will delete any Facebook friend information we currently have.”

RESPONSE TO REQUEST FOR ADMISSION NO. 52:

Admitted.

REQUEST FOR ADMISSION NO. 53:

Admit that in an e-mail dated December 15, 2008, 5:01 p.m., FACEBOOK, by and through its counsel, wrote to YOU: “Meanwhile as you may know, Facebook has taken technical measure to limit the interaction between Power.com and its network at this time. In order to fully initialize your integrated Facebook Connect status, and to lift those technical measures, Facebook requires written confirmation of the following: 1. That Power has purged and destroyed all data that it obtained from the Facebook network or from Facebook users prior to implementation of Facebook Connect including all login information and/or any other data obtained or scraped from Facebook’s website.”

RESPONSE TO REQUEST FOR ADMISSION NO. 53:

Admitted.

/ / /

REQUEST FOR ADMISSION NO. 54:

Admit that, between December 1, 2008 and February 1, 2008, YOU did not delete the "Facebook friend information" in YOUR possession.

RESPONSE TO REQUEST FOR ADMISSION NO. 54:

Admitted.

REQUEST FOR ADMISSION NO. 55:

Admit that, to present date, you have not deleted, purged or destroyed all data that YOU obtained from the FACEBOOK network.

RESPONSE TO REQUEST FOR ADMISSION NO. 55:

Admitted.

REQUEST FOR ADMISSION NO. 56:

Admit that, to present date, you have not deleted, purged or destroyed all FACEBOOK login information obtained from POWER users, including, but not limited to, FACEBOOK user names and/or passwords.

RESPONSE TO REQUEST FOR ADMISSION NO. 56:

Admitted.

Dated: December 15, 2010

BRAMSON, PLUTZIK, MAHLER &
BIRKHAUSER, LLP

By _____/s/
L. Timothy Fisher

Alan R. Plutzik (State Bar No. 77785)
L. Timothy Fisher (State Bar No. 191626)
2125 Oak Grove Road, Suite 120
Walnut Creek, CA 94598
Telephone: (925) 945-0200
Facsimile: (925) 945-8792

LAW OFFICES OF SCOTT A. BURSOR
Scott A. Bursor (*pro hac vice*)
369 Lexington Avenue, 10th Floor
New York, NY 10017-6531
Telephone: (212) 989-9113
Facsimile: (212) 989-9163

Attorneys for Defendants Power
Ventures, Inc. and Steve Vachani